

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PATENT RIGHTS PROTECTION
GROUP, LLC, a Nevada limited
liability company,

Plaintiff,

v.

VIDEO GAMING TECHNOLOGIES,
INC., et al.,

Defendants.

2:08-CV-00662 JCM (LRL)

Date: N/A

Time: N/A

ORDER

Presently before the court is defendant Video Gaming Technologies, Inc.'s and defendant SPEC International Inc.'s joint motion for clarification of order granting counter-motions for jurisdictional discovery and denying without prejudice defendants' renewed motions to dismiss. (Doc. #77). Plaintiff responded (doc. #80), and defendants replied (doc. #81).

On August 18, 2010, this court granted plaintiff's counter-motion for jurisdictional discovery and denied defendants' motions to dismiss for lack of personal jurisdiction without prejudice. (Doc. #75). On August 26, 2010, defendants filed the instant motion requesting relief from certain obligations in this matter until the issue of personal jurisdiction is resolved. (Doc. #77). Defendants contend that the procedural consequence of denying the motions to dismiss without prejudice was to obligate defendants to file an answer and hold the Federal Rule of Civil Procedure 26(f) initial discovery conference before the issue of personal jurisdiction is resolved.

I. The 26(f) Conference

Pursuant to Local Rule 26-1, "counsel for the plaintiff shall initiate the scheduling of the Fed. R. Civ. P. 26(f) meeting within thirty (30) days after the first defendant answers or otherwise appears." Defendants have appeared in this action by filing the motions to dismiss. Accordingly, the parties' obligations under Rule 26(f) have been triggered irrespective of any action by the court.

II. The Answer

Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(I), a defendant must serve an answer within 21 days after being served with the summons and complaint. However, serving a motion under this rule alters these periods. FED. R. CIV. P. 12(a)(4). "[I]f the court denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action." *Id.*

Here, the defendants have each filed a motion to dismiss that the court has denied without prejudice (doc. #75), triggering defendants' obligations under Rule 12. Because the parties are currently engaged in jurisdictional discovery, this outcome is undesirable. The court sees no reason for defendants to file an answer before the court addresses the question of jurisdiction.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that this court's August 18, 2010, order (doc. #75) is VACATED as to the denial of defendants' motions to dismiss (docs. #61, 62).

IT IS FURTHER ORDERED that defendant SPEC International Inc.'s motion to dismiss (doc. #61) and defendant Video Gaming Technologies Inc.'s motion to dismiss (doc. #62) are hereby REINSTATED.

IT IS FURTHER ORDERED that a hearing on the motions (docs. #61, 62) is scheduled before District Judge James C. Mahan on **February 7, 2011, at 11:00 a.m.** in Courtroom 6A.

DATED this 18th day of October, 2010.


 UNITED STATES DISTRICT JUDGE